

**MEETING:** BOI Whangaroa Community Board – 6 April 2016  
**Name of item:** ROLAND'S WOOD  
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### **Executive Summary**

The report proposes the transfer of development, maintenance and administration of Roland's Wood, a 4 hectare woodland reserve located on Kerikeri Inlet Road to a new Trust that has been established by the Friends of Roland's Wood. It is also proposed that the balance of the funds that was included in the Deed of Settlement is also transferred to the new trust to enable the new body to give better effect to the intention of Roland Sanson.

### **Recommendation**

***THAT the BOI Whangaroa Community Board recommends to the Community Services and Development Committee that***

***The responsibility for development, maintenance, operation and administration of Roland's Wood is transferred to the Trust established by the Friends of Roland's Wood, along with the balance of the funds settled with Council for the purpose of maintaining Roland's Wood.***

***AND THAT the Community Services and Development Committee notes that the land that Roland's Wood sits on will continue to be in the ownership of Council.***

### **1) Background**

Roland Sanson gifted 4.0ha of land on Kerikeri Inlet Road to Council in 2007 and a small trust fund of around \$200,000 was provided for the upkeep of the woodlot. As the land was planted as woodland with annual bulbs and exotic trees it required a higher level of service than council would usually fund, and hence the trust fund. The purpose of the trust is "the provision and maintenance of a woodland public park for recreational use, enjoyment and benefit of the public."

#### The Trust

The Trust, "Roland's Wood Trust" was established on 25 June 2007. The Far North District Council is appointed as the sole Trustee. It cannot be relieved of this role without the consent of the High Court.

The Trust Deed provides for a Trust Administration Committee (TAC). The TAC is made up of three council officers; the CEO, the general manager responsible for finance and administration and the manager responsible for community services. Effectively, this group comprises the decision making for the Trust. The Trustee can appoint (and remove) "advisory trustees". It appears that Doug Turner and Florence Annison are appointed to this role.

The Trust Deed specifies that the Trust is a council-controlled organization. An exemption currently exists from the obligations under the Local Government Act of the Trust.

### Operation of Roland's Wood

It appears that the wood was not maintained for a period of time and that Rotary were involved in the re-establishment of the grounds. Their role has ceased, but a volunteer group, the Friends of Roland's Wood, have taken over that role "the Friends". The Friends are involved in the development and implementation of a management plan for Roland's Wood, are actively involved in the on-going maintenance and presentation of the wood and have now formed a charitable trust to be responsible for the work undertaken by the Friends.

A "reserve" of this type does not sit easily either administratively or practically into the Council structure. Over a period of months there has been discussion with the Friends about alternative approaches to developing, maintaining and administering the Wood. Those discussions have settled on an option as set out below, which now needs to go through the decision making processes of Council, starting with engagement with the Community Board.

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## **2) Discussion and options**

### Options

The reasonably practicable options considered are as follows:

1. Status quo.
2. Treat as Council reserve land and maintain and manage the land at the level contemplated by the Trust Deed.
3. Transfer the development, maintenance and operation of the wood to the trust established by the Friends, along with the balance of funds, and limit Council's involvement to ownership of the underlying land. Apply to the High Court to change the Trust Deed to enable this.

### Assessment of options

1. This is not a viable alternative. The Friends need to have the authority to be able to get on with the development and management of the wood. Council does not have the resources available to maintain and administer this reserve at the level contemplated by the settlor of the Trust. There is a viable alternative that is available and wants to take this responsibility. In addition, the new health and safety legislation and the risks and obligations of Council and TAC members mean that an alternative is required.

Not recommended

2. Treating the wood as "just another reserve" is not consistent with the intention of the Trust Deed. Although it is possible for the trust fund to fund the difference between a standard level of service and the higher level of service required for this park for some time, that is finite. Once the bequest funds are exhausted, the administration of this additional level of service is difficult as it cannot be justified within Council's limited resources – Council is good at large scale standard

maintenance and development, but is not generally good at the special or one off developments.

Not recommended

3. This option will use the different governance structure already established by the Friends for the woodland. The new governance group can then plan their development and additional maintenance over the standard level provided. Council will continue to be the land owner, so that preservation of the wood lot is preserved over time, but the community, through the Friends, has responsibility for the ongoing development and maintenance of the wood. There will be provision built into the transfer documents that in the event of the failure of the Friends, operations and maintenance will revert to Council.

#### RECOMMENDED OPTION

As identified in the background section, there have been discussions with the Friends over the future of Roland's Wood. The recommended option has been discussed with the Friends and is their preferred option as well the recommended option for Council.

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### **3) Financial implications and budgetary provision**

There is no proposed increase in funding and the land asset remains with Council. The remaining balance of the funds gifted through the Deed of Settlement will be transferred to the new trust established by the Friends.

Council will continue to fund the standard level of maintenance for the wood (either through paying the cash amount to the Friends, or undertaking the work through its contractor.

Council will incur some cost in the changes to the Trust Deed and having those approved by the Court. The drafting will be undertaken by in-house counsel and the High Court application and processing costs are negligible.

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### **4) Reason for the recommendation**

The current operation of Roland's Wood is not sustainable. The recommendation has the purpose of giving effect to the original intention of Roland Sanson, having Council retain the asset for the long-term benefit of the community, but having development, operations, maintenance and administration undertaken by a focussed community group who are dedicated to the development of the Wood and Roland's vision for the wood.

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Manager: Roger Taylor - General Manager Corporate Services

Compliance schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Relationship with existing policies and Community outcomes.	Not applicable
Possible implications for the relationship of Māori and their culture and traditions with their ancestral land, water, site, waahi tapu, valued flora and fauna, and other taonga.	Not applicable
Views or preferences of persons likely to be affected by, or to have an interest in the matter, including persons with disabilities, children and older persons.	Proposal has been discussed with Friends of Roland's Wood
Does the issue, proposal, decision or other matter have a high degree of significance or engagement as determined under the Council's Policy #2124?	No
If the matter has a Community rather than a District wide relevance has the Community Board's views been sought?	For this community board consideration
Financial Implications and Budgetary Provision. Financial Controller review.	The Chief Financial Officer has not reviewed this report